

65A-8-101. Division responsibilities for fire control and the preservation of forest, watershed, and other lands -- Reciprocal agreements for fire protection.

(1) The division shall determine and execute the best method for protecting private and public property by:

(a) except as provided by Subsection (1)(e), preventing the origin and spread of fire on nonfederal forest, range, or watershed land in an unincorporated area of the state;

(b) protecting a nonfederal forest or watershed area using conservation principles;

(c) encouraging a private landowner to preserve, protect, and manage forest or other land throughout the state;

(d) taking action the division considers appropriate to control wildland fire and protect life and property on the nonfederal forest, range, or watershed land within an unincorporated area of the state; and

(e) implementing a limited fire suppression strategy, including allowing a fire to burn with limited or modified suppression, if the division determines that the strategy is appropriate for a specific area or circumstance.

(2) The division may:

(a) enter into an agreement with a public or private agency or individual:

(i) for the purpose of protecting, managing, or rehabilitating land owned or managed by the agency or individual; and

(ii) establishing a predetermined fire suppression plan, including a limited fire suppression strategy, for a specific fire management area; and

(b) enter into a reciprocal agreement with a fire protection organization, including a federal agency, to provide fire protection for land and an improvement for which the organization normally provides fire protection.

Amended by Chapter 20, 2008 General Session

65A-8-102. State forester.

(1) There is created the position of state forester to carry out the provisions of this chapter.

(2) The state forester shall be a graduate of an accredited school of forestry, technically and professionally competent, and experienced in administration.

(3) The state forester shall be responsible to the director of the division.

(4) In all matters pertaining to forestry and fire control in which the state recognizes a responsibility, the state forester shall be the official representative of the state.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-103. Forestry and fire control funds.

(1) The division shall use money available to it to meet the costs of:

(a) controlling forest, range, and watershed fires;

(b) controlling insect and disease epidemics;

(c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;

and

(d) carrying on the purposes of this chapter.

(2) All money available to the division to meet the costs of Subsections (1)(a) through (d) is nonlapsing and available to the division until expended.

(3) (a) The collection and disbursement of all money made available to the division shall be in accordance with the rules of the Division of Finance.

(b) Money collected by the division from fees, rentals, sales, contributions, reimbursements, and other such sources shall be deposited in the appropriate account.

Amended by Chapter 342, 2011 General Session

65A-8-104. Leaf-It-To-Us Children's Crusade for Trees program created -- Purpose -- Matching funds.

(1) As used in this section, "program" means the Leaf-It-To-Us Children's Crusade for Trees program.

(2) (a) The Leaf-It-To-Us Children's Crusade for Trees program is created within the division.

(b) The purpose of the program is to provide matching funds for the planting of trees on public lands or alongside curbs.

(3) (a) Any student group may submit an application to the division for funds available through the program.

(b) To be eligible for the funds, the student group must provide an equal amount of money.

(c) Both the program funds and the student group's funds shall be used to plant trees on public lands or alongside curbs.

(4) The division shall make rules to administer the program and place emphasis on post-planting care.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-105. Urban and community forestry program.

(1) An urban and community forestry program is created within the division.

(2) The purpose of the program is to encourage the planting and maintenance of trees within municipalities and unincorporated communities.

(3) The division may:

(a) advise and assist municipalities, counties, and other public and private entities in developing and coordinating policies, programs, and activities promoting urban and community forestry;

(b) receive, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, federal funds for the urban and community forestry program; and

(c) provide grants to municipalities and counties for urban and community forestry programs and cooperative projects.

(4) The division shall:

(a) develop a public education program to inform tree care professionals and citizens of the hazards involved with the planting of new trees and the maintenance of

existing trees near overhead power lines and highways; and

(b) develop and implement a program of public awareness to inform citizens about the benefits of planting trees in urban areas and how to maintain trees.

Amended by Chapter 382, 2008 General Session

65A-8-201. Uncontrolled fire is a public nuisance.

Any fire on forest, range, or watershed land in the state burning uncontrolled and without proper and adequate action being taken to control or prevent its spread is a public nuisance.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-202. Fire control -- County responsibilities.

(1) Counties shall abate the public nuisance caused by uncontrolled fire on privately owned or county owned forest, range, and watershed lands.

(2) Counties, or other political subdivisions of the state as determined to be appropriate by the state forester, may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.

(3) The state forester shall make certain that appropriate action is taken to control wildland fires on nonfederal forest, range, and watershed lands.

(4) The actual costs of suppression action taken by the division on privately owned lands shall be a charge against the county in which the lands lie, unless otherwise provided by cooperative agreement.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-203. Cooperative fire protection agreements with counties.

(1) The county legislative body of any county may enter into a cooperative agreement with the division to receive financial and supervisory cooperation and assistance from the division.

(2) A county may not receive cooperation or assistance under Subsection (1) until a cooperative agreement is executed by the county legislative body and the division.

(3) In order to be eligible to enter into a cooperative agreement with the division, the county shall:

(a) adopt a wildland fire ordinance based upon minimum standards established by the division;

(b) require that the county fire department or equivalent private provider under contract with the county meet minimum standards for wildland fire training, certification, and wildland fire suppression equipment based upon nationally accepted standards as specified by the division; and

(c) file with the division a budget for fire suppression costs.

(4) A county that chooses not to enter into a cooperative agreement with the division may not be eligible to receive financial assistance from the division.

(5) The state forester may execute the agreements and may divide the state into fire protection districts.

(6) These districts shall provide efficient and economical fire protection within the area defined.

(7) The districts may comprise one or more counties, or portions of counties to be specified in the cooperative agreements.

(8) Under the terms of the cooperative agreements, the state forester shall file annual budgets for operation of the cooperative districts with each participating county.

(9) If the county approves a budget mutually acceptable to the county and the state forester, and budgets an amount for actual fire suppression costs determined to be normal by the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression costs that exceed the stated normal costs.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created a private-purpose trust fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay fire suppression and presuppression costs on eligible lands within unincorporated areas of counties.

(3) The contents of the fund shall include:

(a) payments by counties pursuant to written agreements made under Section 65A-8-205;

(b) interest and earnings from the investment of fund money; and

(c) money appropriated by the Legislature.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) (a) A maximum level of \$8,000,000 is established for the fund.

(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following year.

(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any equity payment required by Section 65A-8-205.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-205. Agreements for coverage by the Wildland Fire Suppression Fund -- Eligible lands -- County and state obligations -- Termination -- Revocation.

(1) (a) A county legislative body may enter annually into a written agreement with the state forester to provide for payment from the Wildland Fire Suppression Fund of fire suppression costs incurred by the county in excess of the county's fire suppression budget.

(b) Fire suppression costs on forest, range, and watershed lands within the unincorporated area of a county, except federal or state lands, are eligible for coverage by the Wildland Fire Suppression Fund.

(2) (a) An agreement for payment of fire suppression costs from the Wildland

Fire Suppression Fund shall provide that the county shall:

(i) except as provided by Subsection (2)(b), pay into the fund an amount equal to:

(A) .01 times the number of acres of privately- or county-owned land in the unincorporated area of the county; and

(B) .0001151 times the taxable value of real property in the unincorporated area of the county; and

(ii) budget an amount for fire suppression costs determined to be normal by the state forester in accordance with the formula specified by rule.

(b) A county is not required to pay for an acre or real property described in Subsection (2)(a)(i) if the acre or real property:

(i) is subject to concentrated residential, commercial, or industrial development;

(ii) would not be exposed to wildland fire; and

(iii) would not expose any wildland to fire spreading from it.

(3) (a) Any county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, shall make an equity payment, in addition to the assessment provided in Subsection (2)(a)(i).

(b) The equity payment shall represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous three years.

(c) The equity payment shall be determined by the state forester in accordance with division rules.

(4) The agreement shall provide that:

(a) the state shall pay into the fund an amount equal to the county's payment, including any equity payment required under Subsection (3); and

(b) if money in the fund is insufficient to pay for all eligible fire suppression costs, the state shall pay for 1/2 of the county's remaining costs.

(5) The agreement shall provide for revocation of the agreement for failure to pay assessments when due.

(6) Any county that elects to withdraw from participation in the fund, or whose participation in the fund is revoked due to failure to pay its assessments when due, shall forfeit any right to any previously paid assessments by the county.

Amended by Chapter 342, 2011 General Session

65A-8-206. Disbursements from the Wildland Fire Suppression Fund.

(1) Disbursements from the fund shall be made only upon written order of the state forester or his authorized representative.

(2) If the state forester determines money in the fund may be insufficient to cover eligible costs in a program year, the state forester may delay making disbursements from the fund until the close of the program year, at which time available money shall be prorated among those entitled to payments at less than 100%.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-207. Division to administer Wildland Fire Suppression Fund --

Rulemaking -- Procedures.

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire Suppression Fund, including rules:

- (a) requiring documentation for:
 - (i) the number of acres of privately or county-owned land in the unincorporated area of a participating county; and
 - (ii) an acre or real property exempt in Subsection 65A-8-205(2)(b);
- (b) describing the method or formula for determining:
 - (i) normal fire suppression costs; and
 - (ii) equity payments required by Section 65A-8-205; and
- (c) specifying fire suppression and presuppression costs that may be paid with disbursements from the fund.

(2) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the division shall determine whether an acre or real property is eligible for the exemption provided in Subsection 65A-8-205(2)(b).

Amended by Chapter 382, 2008 General Session

65A-8-208. Presuppression costs -- Disbursements from fund -- Credit against assessment -- Limited by appropriation.

(1) The state forester or the state forester's authorized representative may make disbursements from the Wildland Fire Suppression Fund to pay for costs of presuppression and fire management activities initiated by counties participating in the fund, subject to the limitations specified in this section.

(2) Payments to a county for costs of presuppression and fire management activities in any year may not exceed the county's assessment under Subsection 65A-8-205(2)(a).

(3) (a) In lieu of making a disbursement from the fund for a county's costs of presuppression and fire management activities, the county may be given a credit against its assessment under Subsection 65A-8-205(2)(a) equal to those costs.

(b) The credit may not exceed the county's assessment under Subsection 65A-8-205(2)(a).

(4) The total amount of money in the fund that may be allocated to cover costs of presuppression and fire management activities initiated by counties may not exceed the legislative appropriation to the fund for those costs.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-209. Responsibilities of county sheriffs and district fire wardens in controlling fires.

(1) In those counties not directly participating in the state wildland fire protection organization by cooperative agreement as provided in this chapter, the county sheriff shall take appropriate action to suppress uncontrolled fires on state or private lands.

(2) In all cases the sheriff shall:

- (a) report, as prescribed by the state forester, on wildland fire control action;

(b) investigate and report fire causes; and
(c) enforce the provisions of this chapter either independently or in cooperation with the state forester.

(3) In those counties participating in the state wildland fire protection organization by cooperative agreement, the primary responsibility for fire control is delegated to the district fire warden, who is designated by the state forester.

(4) The county sheriff and his organization shall maintain cooperative support of the fire control organization.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.

(1) The division shall abate the public nuisance caused by uncontrolled fire on state-owned forest, range, and watershed lands.

(2) (a) State agencies responsible for the administration of state-owned lands shall recognize the need for providing wildland fire protection and the responsibility for sharing the costs.

(b) Those agencies shall annually allocate funds to the division in amounts as are determined to be fair and equitable proportionate costs for providing a basic level of fire protection.

(c) The amount of protection costs shall be negotiated by the respective land agencies and the division.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits -- Personal liability -- Exemptions from burning permits.

(1) (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.

(b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.

(c) The alteration of the closed season is done by posting the appropriate proclamation in the courthouse of each county seat for at least seven days in advance of the date the change is effective.

(2) During the closed season it is a class B misdemeanor to set on fire, or cause to be set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land without:

(a) first securing a written permit from the state forester or a designated deputy; and

(b) complying fully with the terms and conditions prescribed by the permit.

(3) The district fire warden appointed by the state forester or the county sheriff in nonparticipating counties shall issue burning permits using the form prescribed by the division.

(4) (a) The burning permit does not relieve an individual from personal liability due to neglect or incompetence.

(b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that the fire was not safe.

(5) The state forester, his deputies, and the county sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the interest of public safety.

(6) (a) A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches if:

- (i) the burning does not pose a threat to forest, range, or watershed lands;
- (ii) due care is used in the control of the burning; and
- (iii) the individual notifies the nearest fire department of the approximate time the burning will occur.

(b) Failure to notify the nearest fire department of the burning as required by this section is a class B misdemeanor.

(7) A burning conducted in accordance with Subsection (6) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-212. Power of state forester to close hazardous areas -- Violations of an order closing an area.

(1) (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use.

(b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

- (i) smoking;
- (ii) the use of vehicles or equipment;
- (iii) welding, cutting, or grinding of metals;
- (iv) fireworks;
- (v) explosives; or
- (vi) the use of firearms for target shooting.

(c) Any restriction or closure relating to firearms use:

- (i) shall be done with support of the duly elected county sheriff of the affected county or counties;
- (ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and

(iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

(d) The State Forester and County Sheriff shall:

- (i) agree to the terms of any restriction or closure relating to firearms use;
- (ii) reduce the agreement to writing;
- (iii) sign the agreement indicating approval of its terms and duration; and
- (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.

(2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.

(3) The order or proclamation closing or limiting the use in the area shall set forth:

- (a) the exact area coming under the order;
- (b) the date when the order becomes effective; and
- (c) if advisable, the authority from whom permits for entry into the area may be obtained.

(4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

Amended by Chapter 307, 2013 General Session

65A-8-301. Legislative finding and purpose.

(1) The Legislature finds the health and welfare of the people of the state require the preservation of certain rare, or threatened, or vanishing species of trees to preserve the state's scenic beauty and preserve its historic past as it relates to such trees.

(2) It is the intent of this part to retain as many heritage trees as possible consistent with the reasonable and economic enjoyment of private property.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-302. Definitions.

As used in this part:

(1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.

(2) "Committee" means the Heritage Trees Advisory Committee.

(3) "Division" means the Division of Forestry, Fire, and State Lands.

(4) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:

- (a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;

- (b) any tree or group of trees that has exceptional national, state, or local historic significance;

- (c) any tree or group of trees which has an exceptional size or exceptional form for its species;

- (d) any tree or group of trees which has an exceptional age for its species; or

- (e) any tree or group of trees in the state which is the sole representative of its species.

(5) "Person" means any individual, partnership, corporation, or association.

Amended by Chapter 344, 2009 General Session

65A-8-303. Application to alter or remove trees.

(1) Any person that desires to alter or remove one or more heritage trees from any public property within this state shall before altering or removing any such tree make application to the division on forms prescribed by it.

(2) An application for alteration or removal shall be filed with the division at least 60 days before the actual alteration or removal of any such trees.

(3) The application shall state:

- (a) the name of the applicant;
- (b) the number, location, and species of the trees proposed to be altered or removed;
- (c) the reason for alteration or removal; and
- (d) other information as the division may reasonably require.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-304. Guidelines and standards for granting or denying applications to alter or remove trees.

(1) The committee shall develop published guidelines and standards to be used by the board in granting or denying applications for the alteration or removal of heritage trees.

(2) In addition to the guidelines and standards developed by the committee, the division shall consider the following criteria in granting or denying an application:

- (a) the physical condition of the heritage tree or trees with respect to:
 - (i) insect infestation;
 - (ii) disease;
 - (iii) danger of falling;
 - (iv) proximity to existing or proposed structures; and
 - (v) interference with utility services;
- (b) the necessity of alteration or removal of the heritage tree or trees in order to construct proposed improvements and allow economic enjoyment of property;
- (c) the topography of the land and the effect of removal of the heritage tree or trees on:
 - (i) erosion;
 - (ii) soil retention; and
 - (iii) the diversion or increased flow of surface waters resultant upon alteration or removal;
- (d) the number of heritage trees existing in the neighborhood on improved property;
- (e) the effect alteration or removal would have on established standards and property values in the area; and
- (f) the number of heritage trees the particular parcel can support according to good forestry practices.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-305. Powers of division.

The division may:

- (1) grant or deny applications for designation of heritage trees from individuals, local shade tree commissions, or local governments;
- (2) grant or deny applications for alteration or removal of heritage trees;
- (3) acquire land if one or more heritage trees are located on the land;
- (4) accept gifts, bequests, or donations; and
- (5) determine policies necessary to carry out this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-306. Heritage Trees Advisory Committee -- Members -- Officers -- Expenses -- Functions.

(1) There is created a Heritage Trees Advisory Committee composed of five persons appointed by the division from among persons who are members of the Utah Community Forestry Council.

(2) (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the division shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) The committee shall elect a chair who is responsible to call and conduct meetings.

(b) Three members present at a duly called meeting constitute a quorum for the transaction of official business.

(c) Members of the committee may meet as often as considered necessary.

(d) The urban forestry staff person of the division shall serve as secretary to the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The committee shall:

(a) publish guidelines for division use in granting or denying applications for the designation of heritage trees;

(b) publish an annual register of designated heritage trees and distribute it to public utilities, tree service companies, municipal forestry and parks departments, and the public; and

(c) develop a system for visibly identifying designated heritage trees.

Amended by Chapter 286, 2010 General Session

65A-8-307. Exemption for emergency or permit.

This part shall not apply to any emergency when heritage trees constitute a danger to life or property, or to any person whose application for alteration or removal of a heritage tree has been granted by the division.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-308. Enforcement -- Prosecution of violations.

(1) County sheriffs, police, and other law enforcement officers within their respective jurisdictions are responsible for the enforcement of this part.

(2) The county attorney or district attorney shall prosecute any violation of this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-309. Injury -- Violation of part -- Misdemeanor.

Any person who intentionally or knowingly alters, injures, damages, or causes death of a heritage tree or who otherwise violates this part is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 136, 2007 General Session
Amended by Chapter 229, 2007 General Session